

COVID-19 in Latvia: Precaution Above All

Aleksejs Dimitrovs

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The Government of Latvia adopted the [decision on emergency situation due to COVID-19](#) on 12 March to apply until 14 April. For the time being, this period has been extended once to 12 May. This post considers the applicable legal framework, concrete limitations adopted by the *Saeima* (Parliament) and the Government are described, followed by an assessment from the point of view of European Union values.

The legal framework regarding emergency situations in Latvia is straightforward. The only “state of exception” mentioned in the Constitution ([Article 62](#)) is linked to military threats or insurrections. If the state is confronted with disasters endangering, *inter alia*, health and life of human beings, the Government is entitled to declare emergency situation in accordance with the [Law on Emergency Situation and State of Exception](#). Since the entry into force of the current law in 2013, and until the COVID-19 pandemic, the Government has only declared an emergency situation twice, and both in 2017. In one case, the special regime covered certain territories due to the spread of African swine fever, in the other due to floods.

An emergency situation may be declared for a predefined time period, but no more than three months. The Government is entitled to extend on their own prerogative this period for up to three months – therefore the prolongation regime is the same as for the introduction. The Government is obliged to repeal the decision once the threat is over. Until this year, only one extension was possible, but on 3 April, the *Saeima* amended the law unanimously to allow an unlimited number of extensions on the initiative of parliamentary opposition. It considered that it might not be enough to have only one extension in the case of COVID-19, especially if the Government opts for shorter periods than three months for renewals – which is better from the point of view of proportionality.

The decision of the Government and any amendments with further restrictions or extensions are to be notified to the *Saeima* within 24 hours. The *Saeima* is obliged to include this point into the agenda without delay. If the *Saeima* rejects the decision, it is repealed, and the measures introduced are to be abolished without delay.

As such, the decision to declare an emergency situation does not change the normal order of legislation. In the past, Article 81 of the Constitution delegated to the Government the powers to adopt urgent laws between parliamentary sessions (subject to confirmation by the Parliament at a subsequent point). However, this Article was repealed in 2007 in order to avoid decision-making by the Government in bad faith.

In the current situation, President Egils Levits [has suggested](#) the restoration of emergency legislative powers to the Government in specific situations which are to be determined. However, amending the Constitution would be a lengthy process, especially given the lack of agreement within the ruling coalition and the need for a 2/3 majority in favour of any such amendment. In any event, no party believes that restoration of Article 81 is a current priority.

Digital Democracy

The *Saeima* remains functional. After one MP announced he had been tested positive on 21 March, other MPs had to undergo the tests as well. Since 2 April, the sittings take place partially [remotely, via video conference](#), with MPs joining from different parts of the parliament building. According to Article 15 of the Constitution, the *Saeima* holds its sittings in the city of Riga, and only in extraordinary circumstances may it convene elsewhere. On 23 March, President Egils Levits called a [meeting of the heads of constitutional bodies](#) (the *Saeima*, the Government, the Constitutional Court, the Supreme Court) to discuss the main objectives of these bodies during the time of emergency. It was [agreed](#) that the *Saeima* may use the opportunities to work remotely – in other words, that ‘elsewhere’ in Article 15 might also mean the digital environment. However, for that solution the rules of procedure might need to be adapted – in particular, as regards the voting arrangements. Responding to the COVID-19 crisis, extraordinary (for unrelated reasons) elections of the Riga City Council, initially scheduled for May, have been postponed to 29 August.

One of the most significant laws introduced in light of COVID-19 ([Law on Measures for the Prevention and Suppression of threat to the State and its Consequences, Due to the Spread of COVID-19](#)) was adopted on 20 March but applicable retroactively, from the declaration of emergency situation on 12 March. It primarily lists the measures of economic and financial support for business and affected citizens. Also, according to this law, all licences to operate gambling services both offline and online are suspended for the duration of emergency situation. Some deadlines mentioned in procedural laws have been extended such as the one related to voluntary execution of judgment in civil cases; and creditors are prohibited, until 1 September 2020, from submitting an application for insolvency proceedings in most circumstances.

Judicial System

A further law regarding the justice system ([Law on Activities of State Institutions During Emergency Situation Due to the Spread on COVID-19](#)) was adopted on 3 April for the period of emergency situation. It allows to extend procedural deadlines for the issuance and contestation of administrative acts. Oral hearings in courts are to be held only in urgent and important civil, criminal and administrative cases, and hearings in other cases are to be postponed. Civil cases are to be examined in written procedure to the extent possible; and administrative violations cases are only examined in written procedure while ensuring all procedural rights. The law

also allows the examination in writing of criminal cases on appeal, if neither the prosecution nor the affected persons (ie the accused, the victim) object. Short-term imprisonment for crimes and administrative violations is suspended.

The law delegates powers to the Prison Administration Board to restrict the rights of prisoners. The latter [decided](#) that the prisoners are not allowed to receive visitors, marry, take part in informal education, take part in religious events if they involve third parties, leave the prison temporarily even if they otherwise would have been allowed to. Instead, more telephone calls and video calls may be allowed.

In accordance with the new law, the state police are entitled to receive telecommunication data from service providers regarding the location of infected persons and their contact persons in order to forward this information to the Centre for Disease Prevention and Control for epidemiological investigation.

The [criminal sanctions](#) for violating the legislation on emergency situation remain the same: if the breach of restrictions or prohibitions has led to 'substantial harm' or 'serious consequences' (both concepts are defined in [another law](#)), imprisonment (for up to three or eight years, depending on circumstances), community service or a fine might follow.

However, on 3 April the *Saeima* raised the amount of fines in lesser cases in the [Administrative Violations](#) Code. Where the rules of epidemiological safety are violated, the maximum fine is raised from 700 to 2,000 EUR for natural persons, from 2,800 EUR to 5,000 EUR for legal persons. The fine for the breach of restrictions or prohibitions of emergency situation has risen from 350 EUR to 2,000 EUR for natural persons and 5,000 EUR for legal persons. A new type of violation is added – when a person during emergency situation does not reveal information about being infected, being in contact with infected or about visiting areas of widespread infection, despite being asked, a fine of up to 2,000 EUR might follow. As of 22 April, [550 persons had been fined](#). In one case, the same infected person got fined twice within four days for violating the rules of self-isolation: both times for 2,000 EUR.

Freedom of Assembly and Freedom of Movement

The Law on Emergency Situation and State of Exception authorises the Government to introduce some restrictions as well – in particular, regarding movement, assemblies, or economic activity. The [decision of 12 March](#) stipulates a number of such restrictions. Apart from that, the decision also provides for the exemptions from the procurement law for procurements related to the pandemic (but the information on such transactions should be made available online). All education programmes must be provided remotely.

Initially, the Government decided to prohibit public events, rallies, assemblies and pickets gathering more than 200 people. But on 29 March, this prohibition was extended to all such events, as well as religious events gathering people, and private events, except for funerals outdoors, respecting two-metre distance rules (later on

'baptism ceremonies in urgent cases' were added to the latter exception). From the same date, two-metre distance is a must in all public spaces, indoors and outdoors.

In terms of the freedom of movement, the decision of 12 March refers to three categories of people. Those having arrived from abroad (until 31 March – only from certain most affected states, such as China or Italy) have to self-isolate themselves at home for 14 days. This does not apply to cross-border workers from Estonia and Lithuania, if no symptoms of an acute respiratory infection are shown. Later the same requirement was extended to contact persons of infected people. For the infected themselves, strict isolation is foreseen until full recovery. State police and municipal police are entitled to search for infected persons and their contact persons, and to forcibly convey them at home or the quarantine space.

Latvia has not introduced any movement restrictions at internal borders of the Schengen area. External borders are closed as of 17 March, except for the freight carriage. EU citizens and permanent residents are allowed to cross the border once in order to return to Latvia or another Member State; foreigners and Latvian citizens and [non-citizens](#) living abroad may also leave Latvia. From 17 March international carriage of passengers via airports, ports, by buses and rail transport has been suspended (with the exception of special cases, such as repatriation flights) – also within the EU.

Democracy, Human Rights and the Rule of Law

The restrictions introduced up to now do not look too concerning from the point of view of the values enshrined in [Article 2 of the Treaty on European Union](#) – especially if compared with the restrictions in some other Member States, such as [Hungary](#) or [Bulgaria](#). Against considerations of access to justice, and democratic oversight, the institutions, including courts, remain functional and seek for effective ways of remote working – however, there could be some implications related to the length of proceedings in individual cases. The Government must declare an emergency situation only for limited periods of time, and parliamentary control remains in place. The postponement of the extraordinary elections of the Riga City Council looks reasonable as proper campaigning is hardly possible. However, the temporary administration lacks democratic legitimacy – it was appointed (and can be replaced) by the *Saeima* and consists of civil servants, while having full range of powers of the City Council.

Remote education at all levels looks promising, but it remains to be seen how it is delivered in reality to students from families with lower income or belonging to vulnerable groups – the Government decision only guarantees the service of an assistant to disabled students.

There are more questions regarding the freedom of assembly. Of course, it is difficult to obey the two-metre distance rule during events where many people take part, but smaller assemblies or pickets might be allowed (the restriction seemingly applies even to individual pickets). There is a certain controversy regarding religious events – while any religious gatherings seem to be prohibited, the [explanation by the](#)

[Minister for Justice](#) seems to tolerate religious activities, where individual visitors take part respecting the two-metre distance. Of course, it should be ensured that the same treatment is applied to every religion without discrimination.

As regards the freedom of movement, the existing restrictions do not look problematic from the point of view of the Constitution, as well as EU law, such as the [Free Movement Directive](#). For example, all quarantine rules are equally applicable to Latvian citizens and non-citizens and other EU citizens and their family members, in compliance with the [Commission guidelines](#); there is no general entry ban for EU citizens and their family members, and the procedural safeguards remain valid

More controversial might be the delegation of powers to the Prison Administration Board to restrict the rights of prisoners. Given that the Government decision on emergency situation has been amended 13 times since 12 March (and counting), it can be done quite quickly – and to allow a better oversight and legitimacy, the restrictions might be defined by the Government itself. Anyway, the restrictions already adopted in general do not look problematic, while there could be implications in individual cases.

Another critical remark should address the collection of telecommunication data. If the only purpose is epidemiological investigation, the Centre for Disease Prevention and Control could request data directly, without involvement of the state police. The more institutions are involved in processing, the more the risk of unauthorised or unlawful processing increases, especially bearing in mind that data concerning health have special protection under Article 9 of the [General Data Protection Regulation](#).

The only case having reached the Constitutional Court, which directly relates to crisis legislation is [one concerning prohibition of online gambling](#). Indeed, it is difficult to understand, to what extent this prohibition is caused by the pandemic. Relevant amendment was proposed by a group of opposition MPs in 15 minutes between the first and second reading arguably to protect gambling addicts from spending money during the crisis.

Finally, the most controversial issue is the decision of Latvia to declare derogations in accordance with [Article 15 of the European Convention on Human Rights](#) and [Article 4 of the International Covenant on Civil and Political Rights](#) – also given that among other EU Member States, only Estonia and Romania decided to do so. [According to the Office of the Representative of Latvia before International Human Rights Organisations](#), it was necessary, because the Government decision foresees no individual assessment of restrictions of human rights in some situations – such as the right to respect for private and family life, the freedom of assembly, the right to education and the freedom of movement. It should be noted, however, that the restriction of those rights is [possible](#) for the protection of health; and, according to case-law, even general bans, such as a [general ban on demonstrations](#), can be justified. On the other hand, one might agree that [international notification of an emergency may reflect a country's commitment to legality and normalcy](#). If it is so in the case of Latvia, further steps will show. For the time being, let us consider it a sign of precaution.

